

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

NIPPON SHINYAKU CO., LTD.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 21-1015-JLH
	)	
SAREPTA THERAPEUTICS, INC.,	)	<b>DEMAND FOR JURY TRIAL</b>
	)	
Defendant.	)	
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	)	
SAREPTA THERAPEUTICS, INC. and THE	)	
UNIVERSITY OF WESTERN AUSTRALIA,	)	
	)	
Defendant/Counter-Plaintiffs,	)	
	)	
v.	)	
	)	
NIPPON SHINYAKU CO., LTD.	)	
and NS PHARMA, INC.,	)	
	)	
Plaintiff/Counter-Defendants.	)	

**THE COURT’S PRELIMINARY JURY INSTRUCTIONS (PHASE II)**

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**I. INTRODUCTION**

Members of the Jury: Now that you have rendered your verdict in the first phase of the case, we will proceed to the second and final phase of the case.

All of the general rules and guidance that I gave you at the beginning of the first phase apply equally to this phase.

As a reminder, these instructions are intended to introduce you to the case and the law that you will apply to the evidence you will hear. I will give you more detailed instructions on the law at the end of the trial.

## **II. OVERVIEW OF THE CASE AND BURDEN OF PROOF**

[You will need to decide any money damages to be awarded to Nippon Shinyaku to compensate it for infringement. Nippon Shinyaku has the burden of proving the amount of any monetary damages associated with its patent infringement claim by a preponderance of the evidence. You will need to decide any money damages to be awarded to Sarepta and UWA to compensate them for infringement. Sarepta and UWA have the burden of proving the amount of any monetary damages associated with their patent infringement claim by a preponderance of the evidence.] That burden of proof means that the parties have to prove to you, in light of all the evidence, that what they claim is more likely true than not true.

### **III. CONDUCT OF THE JURY**

I will briefly remind you about your conduct as jurors. All of the instructions I gave you at the beginning of the first phase of trial apply equally to this phase.

Starting now, and going until you have heard all of the evidence and retired to the jury room to deliberate after closing arguments, you are not to discuss the case with anyone, not even among yourselves during the trial. You must not read or listen to anything touching on this case that is not admitted into evidence, do any research, or investigate the case on your own. And you should not form any conclusion as to the claims until all the evidence is presented.

#### **IV. COURSE OF THE TRIAL**

The second phase of the trial will follow roughly the same format as the first phase.

First, each side may make an opening statement.

After the opening statements, the parties will present their evidence, according to the following general order.

[First, Nippon Shinyaku will present its evidence that Nippon Shinyaku sustained damages as a result of Sarepta's infringement.

Second, Sarepta will present evidence responding to Nippon Shinyaku's evidence of patent damages. Sarepta and UWA will also present their evidence that Sarepta and UWA sustained damages as a result of Nippon Shinyaku and NS Pharma's infringement.

Third, Nippon Shinyaku and NS Pharma will present evidence responding to Sarepta's evidence of patent damages.]

Finally, after all of the evidence is presented, each side may make closing arguments.

As was the case in the first phase of trial, both before and after closing arguments, I will give you instructions on the law and describe for you the matters you must resolve.

You will then retire to the jury room to deliberate on your verdict.

**V. TRIAL SCHEDULE**

The second phase of the trial will follow a similar, but shorter, schedule as the first phase. This phase of the case is expected to take approximately a half day to try, so the trial presentation should conclude tomorrow, December 20, 2024.

As a reminder, this is the general schedule. It is possible there will be some interruptions if I have to attend to other matters.

The only significant exception to the schedule may occur when the case is submitted to you for your deliberations. At that point, you will be permitted to deliberate as late as you wish.